

## REMARKS

Claims 1-5, 8, 9 and 11-13 are pending in the application. Claims 1, 3-5, 8 and 11 have been amended. Claims 7 and 10 have been canceled without prejudice or disclaimer. Reconsideration of this application is respectfully requested.

The Office Action notes that the Oath or Declaration is defective because the inventor's signature is missing. A Declaration with the inventor's signature is being provided via a separate transmittal document.

The Office Action rejects claims 7-10 under the second paragraph of 35 U.S.C. 112 as indefinite because claim 7 depends from cancelled claim 6. It is submitted that the rejection is obviated by the amendment because claims 7 and 10 have been canceled and claim 8 has been amended to depend from independent claim 5 and should be withdrawn.

The Office Action rejects claims 5 and 7-10 under 35 U.S.C. 102(b) as anticipated by British Patent No. 1,600,743 to Haddrell, hereafter Haddrell. This rejection is moot as to claims 7 and 10, which have been cancelled.

Independent claim 5 has been amended using features from former claims 7 and 10, which have been cancelled. Amended independent claim 5 now more clearly specifies the relationship between the various elements of the device and, particularly, the way in which they interact in order to effect a seal during mounting of the device upon a waste outlet. The significance of these features and their interrelationship must not be underestimated: the fact that the configuration of the device enables a seal to be effected single-handedly during a mounting operation is of fundamental importance and it provides a significant benefit at the point of installation. This is distinct from the prior art, in which the mounting process is difficult and requires the use of wrenches and other tools. It

should be remembered that waste outlets are often located in places that are difficult to access and/or suffer from poor lighting.

Given the way in which the claimed invention operates relative to the prior art, corresponding features identified by the Examiner are, in fact, very different in nature. The Examiner, therefore, appears to be relying on *ex-post facto* analysis. For example, the Examiner has asserted that Haddrell discloses a tubular body portion, by referring to the pipe 8. This assertion is fundamentally wrong. The pipe 8 is not part of the device disclosed in Haddrell. Instead, it is simply something that the device is attached to. The Haddrell device, therefore, lacks a tubular housing, which forms the primary structure of the present invention.

In order to emphasize the difference between the claimed invention and Haddrell more clearly, amended independent claim 5 further specifies the presence of a nut for mounting the device upon the waste outlet. Although Haddrell does disclose nut 10, this nut lacks an annular recess which surrounds a part of annular sleeve of the support means in such a way as to receive a radial flange of the annular sleeve in such a manner as to permit axial movement thereof within the recess.

Given the lack of a housing and the lack of a support means and nut, which co-operate with the housing in the claimed manner, Haddrell fails to disclose a non-return device, which is capable of providing the benefits of the present invention. In addition, Haddrell fails to suggest the present invention as Haddrell's device is a coupling for connecting two pipe lengths and does not address the technical issues surrounding the making of a non-return device with its own housing to a waste outlet.

For the reason set forth above, it is submitted that the rejection of claims 5, 8 and 9 under 35 U.S.C. 102(b) as anticipated by Haddrell is obviated by the amendment and should be withdrawn.

The Office Action rejects claims 11-13 under 35 U.S.C. 102(b) as anticipated by U.S. Patent No. 5,460,200 to Glicksman, hereafter Glicksman.

Independent claim 11 has been amended at line 6, by changing "thereof" to "of the housing".

Glicksman actually lacks most of the features of amended independent claim 11. First, Glicksman's device is not a non-return device for use between a waste outlet and a waste pipe – but rather is simply a valve for a balloon. Second, Glicksman's device lacks a housing within the meaning of the amended independent claim 5. Third, Glicksman's device lacks means holding the wall members apart from one another - an inlet is defined by moulding the shape of the wall members, rather than by the presence of another element.

For the reason set forth above, it is submitted that the rejection of claims 11-13 under 35 U.S.C. 102(b) as anticipated by Glicksman is erroneous and should be withdrawn.

The Office Action rejects claims 1-4 under 35 U.S.C 103(a) as unpatentable over British Patent No. 2,296,309 to O'Hara et al., hereafter O'Hara in view of Belgium Patent No. 669,967 to De Bruyne, hereafter De Bruyne.

Independent claim 1 has been amended at line 6, by changing "thereof" to "of the housing".

The Examiner has again made some highly inappropriate assumptions, which appear to be based on *ex-post facto* analysis. Furthermore, the Examiner

has misinterpreted the disclosure of De Bruyne. The invention of Claim 1 is intended to provide an uninterrupted flow path for fluid passing through the device while still enabling connection of the device between inlets and outlets of differing diameters. As explained in the specification, this is important in that it prevents the build-up of debris within the system, thereby reducing the risk of contamination and unpleasant odours. While O'Hara discloses some features of amended independent claim I, O'Hara does not disclose the offset outlet. While De Bruyne does show an offset outlet (which is actually of the same diameter as the inlet), De Bruyne fails to disclose "a wall portion of the body portion [which] is radially congruous with a wall portion of the outlet portion, *so as to define a generally uninterrupted flow surface for discharging fluid.*" Therefore it is insufficient to substitute the teaching of De Bruyne into O'Hara, as this would result in a stepped-flow path which would present the primary disadvantages of the prior art and completely fail to provide the benefits sought by the present invention.

This particular aspect of the invention, therefore, is unobvious as O'Hara and De Bruyne do not even begin to suggest the claimed arrangement. Furthermore, there is no teaching in either O'Hara or De Bruyne that points towards the uninterrupted flow path recited in amended independent claim I. The offset disclosed in De Bruyne is, in fact, entirely coincidental and provided merely to enable clearance for the valve flap to operate.

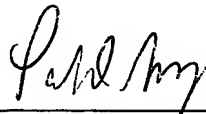
For the reasons set forth above, it is submitted that the rejection of claims 11-13 under 35 U.S.C. 103(a) is erroneous and should be withdrawn.

It is respectfully requested for the reasons set forth above that the rejections under 35 U.S.C. 112, 35 U.S.C. 102(b) and 35 U.S.C. 103(a) be withdrawn, that claims 1-5, 8, 9 and 11-13 be allowed and that this application be passed to issue.

For the reasons set forth above, it is submitted that this amendment places the application in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and passed to issue. If this amendment is deemed to not place the application in condition for allowance, it is respectfully requested that it be entered for the purpose of appeal.

Respectfully Submitted,

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